

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2019-____-E**

IN RE:)	
Request of Eastover Solar LLC for)	
Modification of Interconnection Agreement)	
with South Carolina Electric & Gas Company)	REQUEST FOR MODIFICATION
)	

INTRODUCTION

Eastover Solar LLC, (hereinafter as, “Eastover Solar”), is a Delaware LLC, domesticated to conduct business in South Carolina and located in Richland County, South Carolina. Eastover Solar makes this Request for Modification of an Interconnection Agreement, dated November 13, 2018, between South Carolina Electric & Gas Company, (hereinafter as, “SCE&G”) and Eastover Solar (hereinafter as, the “IA”). Specifically, Eastover Solar requests that provisions of the IA giving SCE&G the right to curtail the delivery of energy from Eastover Solar’s facility, be clarified or modified at the conclusion of a recently established stakeholder process on curtailment to conform with the approach to curtailment resulting from that process.

REQUEST FOR MODIFICATION

Basis for Request.

Eastover Solar’s Request for Modification is made pursuant to Section 12.12 of the IA, which states, “[T]he Interconnection Customer shall have the right to make a unilateral filing with the Commission to modify this agreement.” In addition, Eastover Solar makes this Request because the Commission has the statutory authority to amend, modify, and change any contract with an electrical utility that affects the use or disposition of an electrical utility’s product or charges paid to an electrical utility when the public interest requires. *See* S.C. Code Ann. Section 58-27-980, (1976, as amended).

Background for Request.

When the utility curtails production from a generating facility, it restricts the generator's ability to inject power onto the grid. Unless a generator is compensated for curtailment, project revenues are reduced in proportion to the amount its output is curtailed. The federal PURPA statute, 16 U.S.C. § 824a-3 *et seq.*, and implementing regulations limit the legal right of a utility to curtail the output of a Qualifying Facility such as Eastover Solar. However, as stated above, the SCE&G IA contains detailed and complex provisions giving SCE&G the right to curtail the output of Eastover Solar under certain broadly-defined operational circumstances. Those curtailment provisions are found in the language added by SCE&G to Appendix "4" to the IA, and not in the Commission-approved standard terms and conditions.

SCE&G has yet to provide any clear guidance to Eastover Solar, or to this Commission as to how it will implement these curtailment provisions. Without any protocols defining how these curtailment rights will be exercised, Eastover Solar and other solar developers face a high degree of uncertainty as to the revenues that they will receive from the operation of their facilities. These provisions and this uncertainty have made it extremely difficult for Eastover Solar to secure financing for the Eastover Solar facility (including the funding of the Milestone #1 payment). The problematic curtailment language in Section 3.4 of the IA –most notably in appears in, *inter alia*, (i) Section "3.4" and (ii) Appendix "4" of the IA, (the applicable language is incorporated herein by reference, as if set forth verbatim).

Stakeholder Process.

A stakeholder process to address solar developers' concerns about curtailment has recently been established. The stakeholder process is between the South Carolina Solar Business Alliance, Inc. (hereinafter as, "SCSBA"), and SCE&G and is to be facilitated by ORS. The stakeholder process is memorialized in a Settlement Agreement¹ dated November 30, 2018, between SCE&G, Dominion Energy, Inc. and SCSBA, on page 6 in paragraph (3)(B)(i), (the applicable language is incorporated herein by reference, as if set

¹ The Settlement Agreement was approved by this Commission on December 21, 2018, in Order No. 2018-804, in Docket 2017-370-E.

forth verbatim). Eastover Solar expects that the stakeholder process will result in the adoption of clarifying curtailment protocols, and potentially modifications to SCE&G's current IA curtailment provisions, that will alleviate the financing difficulties that have been caused by the curtailment language in the current IA.

Because of the difficulties created by the current IA curtailment provisions and, in particular, the lack of clarity about how SCE&G will implement these provisions, as well as the pendency of the stakeholder process and the expected relief to be obtained in that process, Eastover Solar respectfully asks this Commission to inquire into this matter and (i) approve Eastover Solar's Motion to Maintain Status Quo filed concurrently with this Request and (ii) grant Eastover Solar's Request for Modification of the IA as necessary to conform with SCE&G curtailment protocols and the results of the stakeholder process.

Requestor is represented by counsel in this proceeding:

Richard L. Whitt,
AUSTIN & ROGERS, P.A.
508 Hampton Street, Suite 203
Columbia, South Carolina 29201
Telephone: (803) 251-7442
Facsimile: (803) 252-3679
RLWhitt@AustinRogersPA.com

RESERVATION OF RIGHTS

Eastover Solar reserves all of its legal rights and remedies, including but not limited to, the filing of a formal Complaint with this Commission, after this Commission's decision on this Request for Modification and Motion to Maintain Status Quo, described hereinabove.

CONCLUSION

Based on the foregoing, this Request for Modification, and Eastover Solar's Motion to Maintain Status Quo, filed concurrently with this Request for Modification and referenced hereinabove, this Commission should inquire in this matter and Order the following relief.

WHEREFORE, Requestor prays for the following relief:

- a. Order SCE&G to clarify or modify the Interconnection Agreement referenced in detail hereinabove after the adoption of curtailment protocols by SCE&G and a report to this Commission on the outcome of the stakeholder process referenced hereinabove; and
- b. Grant Requestor's Motion to Maintain Status Quo, effective as of the date of its filing; and
- c. GRANT SUCH OTHER AND FURTHER RELIEF AS IS JUST AND PROPER.

January 24, 2019
Columbia, South Carolina

Respectfully Submitted,
/s/Richard L. Whitt,

Richard L. Whitt,
RLWhitt@AustinRogersPA.com
AUSTIN & ROGERS, P.A.
508 Hampton Street, Suite 203
Columbia, South Carolina 29201
(803) 251-7442
As Counsel for Eastover Solar LLC.